

**ENTERED**

January 17, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

EDWARD MOORE,	§
	§
Plaintiff,	§
VS.	§ CIVIL NO. 2:17-CV-121
	§
JANE DOE, <i>et al</i> ,	§
	§
Defendants.	§

**ORDER**

The Court has before it Plaintiff Edward Moore’s (“Moore”) amended complaint (Dkt. No. 29), the Memorandum and Recommendation (“M&R”) of the Magistrate Judge to whom this case is assigned (Dkt. No. 30), the Office of the Attorney General’s (“OAG”) *amicus curiae* objection to the M&R (Dkt. No. 32), Moore’s objections to the M&R (Dkt. No. 34), and Moore’s response to OAG’s objection (Dkt. No. 33).

Moore’s amended complaint alleges claims of deliberate indifference, excessive force, and failure to protect against officers and other individuals stemming from his time as a prisoner at the McConnell Unit in Beeville, Texas. The Magistrate Judge recommends that the Court (1) dismiss Moore’s claims for damages against Defendants in their individual capacities as barred by the Eleventh Amendment; and (2) retain all other claims. Dkt. No. 30. The only objection raised by the OAG is that Defendant John Doe Texas Tech Representative is not a proper defendant in this case because Texas Tech does not provide medical care at the McConnell Unit. Dkt. No. 32. Moore states that he “agrees [to] drop Defendant John Doe Texas Tech Representative” and does not raise any independent objections. Dkt. Nos. 33, 34 at 2.

After independently reviewing the record and applicable law, this Court **DECLINES TO ADOPT IN PART** the M&R as to Moore’s claim against John Doe

Texas Tech Representative and **ADOPTS IN PART** the M&R in all other respects. The Court therefore:

- **RETAINS** Moore's deliberate indifference claims against Registered Nurse G. Samuel and John Doe UTMB Representative in their individual capacities;
- **RETAINS** Moore's excessive force claim against Sgt. Juan Trevino in his individual capacity;
- **RETAINS** Moore's failure-to-protect claims against Officer Jane Doe and Captain Perales in their individual capacities;
- **DISMISSES** Moore's claims for money damages against all Defendants in their official capacities as barred by the Eleventh Amendment;
- **DISMISSES** Moore's deliberate indifference claim against John Doe Texas Tech Representative and **DISMISSES** John Doe Texas Tech Representative as a Defendant in this case.

SIGNED this 17th day of January, 2018.



Hilda Tagle  
Hilda Tagle  
Senior United States District Judge